

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

---

DONALD J. TRUMP,

Plaintiff,

v.

Case No. 20-CV-1785

THE WISCONSIN ELECTIONS  
COMMISSION, et al.,

Defendants.

---

**NOTICE OF MOTION AND MOTION TO DISMISS  
BY WISCONSIN ELECTIONS COMMISSION AND ITS MEMBERS  
AND WISCONSIN SECRETARY OF STATE DOUGLAS LA FOLLETTE**

---

PLEASE TAKE NOTICE that pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), Defendants Wisconsin Elections Commission and its members, and Wisconsin Secretary of State Douglas La Follette (“State Defendants”) hereby move the Court for an order dismissing Plaintiff’s Complaint for Declaratory and Injunctive Relief Pursuant to Article II of the United States Constitution.

The grounds of this motion are set forth below and discussed more fully in the State Defendants’ Opposition to Plaintiff’s Motion for Declaratory and Injunctive Relief, which is being simultaneously filed.

1. Plaintiff lacks Article III standing because (1) as a private citizen and candidate, he has no legally protected interest in the Elections and

Electors Clauses of the United States Constitution; (2) his claims of injury are speculative and insufficient to establish that the election irregularities he has alleged changed the outcome of the election to his detriment; and (3) his asserted injury is not judicially redressable by a federal court.

2. Plaintiff's allegations of state election law violations fail to state a claim on which relief can be granted under U.S. Const. art. I, § 4, cl. 1., or art. II, § 1, cl. 2, because those constitutional provisions do not convert the alleged state election irregularities into a federal constitutional violation.

3. Plaintiff's claims are barred by laches because the state election administration issues about which he complains were publicly known long before the November 3, 2020, election, local election officials and Wisconsin voters conducted and participated in that election in reliance on pre-election guidance about those issues from state election officials, and Plaintiff unjustifiably delayed until almost a month after the November election to bring his claims.

4. Plaintiff's claim for a federal court injunction commanding state election officials to comply with state law is barred by the Eleventh Amendment to the U.S. Constitution.

5. Each of the state-law claims underlying Plaintiff's federal claims fails to state a valid claim for relief as a matter of state law.

6. The remedy Plaintiff seeks—retroactively invalidating the entire November 3, 2020, popular presidential election in Wisconsin and “remanding” to the Wisconsin Legislature—is unconstitutional.

WHEREFORE, State Defendants respectfully request that the Court enter an order dismissing with prejudice Plaintiff’s Complaint for Declaratory and Injunctive Relief Pursuant to Article II of the United States Constitution.

Dated this 8th day of December 2020.

Respectfully submitted,

JOSHUA L. KAUL  
Attorney General of Wisconsin

Electronically signed by:

s/Colin T. Roth  
COLIN T. ROTH  
Assistant Attorney General  
State Bar #1103985

STEVEN C. KILPATRICK  
Assistant Attorney General  
State Bar #1025452

THOMAS C. BELLAVIA  
Assistant Attorney General  
State Bar #1030182

Wisconsin Department of Justice  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 264-6219 (CTR)  
(608) 266-1792 (SCK)  
(608) 266-8690 (TCB)  
(608) 267-8904 (GJK)  
(608) 294-2907 (Fax)  
rothct@doj.state.wi.us  
kilpatricksc@doj.state.wi.us  
bellaviatc@doj.state.wi.us  
johnsonkarp@doj.state.wi.us

GABE JOHNSON-KARP  
Assistant Attorney General  
State Bar #1084731

Attorneys for Wisconsin Elections  
Commission and its members, and  
Secretary of State La Follette